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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

In re: MGM Resorts International Data Breach Litigation

Master File No.: 2:20-cv-00376-GMN-NJK

This Document Relates To: All actions.

**NOTICE OF RELATED CASES
PURSUANT TO LOCAL RULE 42.1**

RELATED CASE NOS.:

**2:23-CV-01981-RFB-EJY
2:23-CV-02042-ART-BNW
2:23-CV-02064-APG-DJA**

Plaintiffs Ryan Bohlim, Duke Hwynn, Andrew Sedaghtpour, Gennady Simkin, Robert Taylor, Michael Fossett, Victor Wukovits, Kerri Shapiro, Julie Mutsko, John Dvorak, Larry Lawter, individually and on behalf of those similarly situated (collectively, “Plaintiffs”) hereby file this Notice of Related Cases. This Notice supplements the Notice of Related Cases previously filed on December 6, 2023.

I. Title and Case Number of Each Possibly Related Action:

- *Albrigo v. MGM Resorts International*, 2:23-cv-01981-RFB-EJY, filed November 30, 2023
- *Sloan v. VICI Properties Inc., et al.*, No. 2:23-cv-02042-ART-BNW, filed December 9, 2023
- *Righetti v. MGM Resorts International*, No. 2:23-cv-02064-APG-DJA, filed December 14, 2023

1 **II. These Cases Should Be Related to *In re: MGM Resorts International Data Breach***
 2 ***Litigation.***

3 Together with the ten cases identified in the Notice filed on December 6, 2023, these three
 4 cases should also be related to the ongoing litigation captioned *In re: MGM Resorts International Data*
 5 *Breach Litigation*, No. 2:20-CV-00376-GMN-NJK (“*In re: MGM Data Breach*”) because they involve
 6 the same claims based on similar facts being alleged against the same Defendant on behalf of
 7 substantially overlapping putative classes. *See* Notice, *In re: MGM Data Breach*, Dkt. No. 183
 8 (December 6, 2023).

9 As detailed in the previously filed Notice, in 2020, Judge Navarro appointed the undersigned
 10 as Co-Lead Counsel and Co-Liasion Counsel in six consolidated class actions brought against MGM
 11 Resorts International by individuals whose information was compromised in MGM’s massive 2019
 12 data breach. *See Order*, *In re: MGM Data Breach*, Dkt. No. 93 (February 1, 2021). Since then, the
 13 parties have briefed MGM’s Motion to Dismiss, which the Court granted in part and denied in part in
 14 a detailed 43-page Order. *See Id.*, Dkt. No. 128 (Nov. 2, 2022). The parties are now in the middle of
 15 fact discovery and about to begin depositions.

16 Just like the cases identified in the previously filed Notice, these three cases assert similar
 17 claims against MGM related to a data breach that the company announced in September 2023. They
 18 involve the same defendant, substantially similar factual questions, and appear to involve a largely
 19 overlapping proposed classes as *In re: MGM Data Breach*. In particular, MGM notified many affected
 20 consumers that the personal information obtained in the 2023 breach belonged to customers who
 21 transacted with MGM prior to March 2019, which means the class members in the 2023 Data Breach
 22 Cases are substantially the same people whose claims already are being litigated in *In re: MGM Data*
 23 *Breach*. In addition, both the 2019 and 2023 data breaches resulted in the compromise of the same
 24 types of personal information. Thus, many of the legal and factual questions at issue in the cases are
 25 overlapping, such that assignment to a single district judge will promote judicial efficiency and prevent
 26 inconsistent results. The newly-filed cases assert the same or substantially similar claims against
 27 MGM as in the 2019 data breach case.

Assigning these cases to different judges also would risk inconsistent judgments. For example, in the present case, Judge Navarro has already ruled on issues like whether the economic loss doctrine bars Plaintiffs' negligence claim (finding that it does not) and whether Plaintiffs' damages theories concerning the benefit of the bargain and the diminution of value of PII are legally cognizable (finding in favor of Plaintiffs on both theories). *See Smallman v. MGM Resorts International*, 638 F. Supp. 3d 1175, 1188, 1190-91 (D. Nev. 2022). Unsurprisingly, plaintiffs in the newly-filed cases also make negligence claims and assert damages theories that are very similar to those in *In re: MGM Data Breach*. There is, therefore, a significant risk of inefficient and inconsistent judgments should different judges be assigned and reach varying conclusions on the same issues in litigation involving the same Defendant.

MGM filed a document styled as a “Response” in opposition to Plaintiffs’ Notice, but conspicuously did not respond to the argument that all of these actions involve substantially the same class members. *See Response, In re: MGM Data Breach*, Dkt. No. 184 (December 8, 2023). The *In re: MGM Data Breach* plaintiffs have served MGM with discovery concerning the overlap between the two data breaches and the affected class members and MGM has yet to provide any substantive response. While the undersigned are only moving to relate these cases at this time, it may, depending on the facts, be extraordinarily inefficient to appoint separate counsel to represent substantially the same class members on nearly identical legal and factual claims.

Given the similar questions of law and fact between those actions and this case, the strong likelihood of significant overlap between the class members, and the substantial progress in *In re: MGM Data Breach*, relating these actions would be far more efficient than keeping them separate.

DATED this 20th day of December, 2023.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of December, 2023, and pursuant to the Federal Rules of Civil Procedure, a true and correct copy of the foregoing **NOTICE OF RELATED CASES PURSUANT TO LOCAL RULE 42.1** was served via the U.S. District Court's electronic filing system on all individuals entitled to receive service thereto.

/s/ Pamela McAfee
An employee of Kemp Jones, LLP